

1 job to make sure it gets done.

2 Q Okay. But I'm focusing very narrowly, Mr.
3 Nourain, on the process of putting together this inventory,
4 which Ms. Richter was doing in March of '93. And what I
5 wanted to know was whether or not there was any information
6 that she gave you as part of this putting together the
7 inventory?

8 A Not that I recall.

9 Q Okay. Now, she did send you a draft of an
10 inventory, did she not? Do you remember that?

11 A I have sen that draft.

12 Q Okay. I'd like you to take a look at what's been
13 previously marked as TW/CB 58. It's behind Tab No. 7 in the
14 thin notebook.

15 A Okay.

16 Q All right. Do you recall receiving this facsimile
17 from Ms. Richter on or about March 16, 1993?

18 A I don't recall, but now I see it I'm sure I have
19 received it.

20 Q Okay. Now, in the instructions, or the comments,
21 on the cover sheet, Ms. Richter writes, "Enclosed are drafts
22 of the inventories for Liberty's 10 licenses. Please review
23 and call me with anything that needs changing."

24 Do you know whether or not you reviewed this
25 material she sent?

1 A Do you want to give me a minute to read it?

2 Q Sure.

3 JUDGE SIPPEL: Let's go off the record while he
4 reads it.

5 (Whereupon, a brief recess was taken.)

6 JUDGE SIPPEL: Back on the record.

7 MR. BECKNER: The witness has asked that I repeat
8 the question, so I'm going to repeat it. The question was,
9 Mr. Nourain, is Ms. Richter's comments on the cover sheet
10 are, "Enclosed -- " And I'm reading. "Enclosed are drafts
11 of the inventories for Liberty's 10 licenses. Please review
12 and call me if anything needs changing."

13 BY MR. BECKNER:

14 Q And the question was, do you remember whether or
15 not you in fact reviewed the drafts of inventories that were
16 a part of this facsimile?

17 A Well, as part of the letter shows, it was from her
18 to Michael Roth of Comsearch.

19 Q Right.

20 A So most of this letter, she generated all the
21 information because of what I gave her. So obviously,
22 you're asking that, did I review what I already gave her to
23 do? Yes.

24 Q Okay. I'm asking you simply, did you review the
25 information that she sent to in this fax? I realize that

1 it's a copy of a letter to Mr. Roth, and I just want to know
2 if you reviewed the information.

3 A I always reviewed this type of information that I
4 gave her which went to Comsearch, particularly the technical
5 information. Yes.

6 Q Okay. And do you remember whether or not you
7 called Ms. Richter to advise her of anything of this
8 information that she sent you on the 16th of March needed to
9 be changed?

10 A I don't recall right now. It's been too long ago.
11 But I'm sure that if I saw some error, technical errors in
12 that, I would have informed her immediately.

13 Q Okay. Did you understand that this draft
14 inventory that she was sending you was supposed to be a
15 complete list of Liberty's licenses?

16 A Again, since I gave her all this information, it
17 was basically for her use, for her -- For her records. So I
18 assumed all of them were right.

19 Q Okay. I'm not sure that you understood my
20 question. Let me ask it in a little bit different way.

21 You said that you had given her all the
22 information, and what she was doing her in this fax was in
23 effect giving it back to you. Is that correct?

24 A No. In effect, to me it was just that she was
25 getting my instruction, sending it to Comsearch, and just

1 copying me on what she did and sent to Comsearch.

2 Q Okay. But she asked you to review this, right?

3 A She asked me to look at it, yeah.

4 Q And so the question is, you know, would you have
5 looked at it to make sure that she had everything in the
6 inventory that you thought was supposed to be there?

7 A Yes.

8 Q Okay. And so, for example, if you had discovered
9 that the inventory didn't list a particular license that you
10 thought Liberty had you would have called her and said, "The
11 inventory doesn't list this particular license." Right?

12 A No, that's not correct.

13 Q Okay. The correct thing is that -- The whole
14 purpose was not that, what licenses we don't have and we
15 want to get. We had everything we wanted, and more. We
16 were just going to get some of it and take it apart.

17 Your question implies that this list is including
18 some of the licenses that I had and some of the licenses
19 that I needed. That is not correct.

20 The inventory was basically that everything I need
21 and I operated I had. There are things that I didn't
22 needed, or I needed to technically changed, and I asked her
23 to delete or to modify. It's not that, check to see what
24 licenses I don't have. At this time I had all the licenses
25 for certain buildings that I was, we were installed and

1 operated at the time, and then we had more licenses for the
2 future.

3 Because in 1992, '93, that you are talking about,
4 we were on the first -- Certainly I was in the first year
5 within the company, and we average about 25, 30 buildings a
6 year. At the time this document's generated in '93, we'd
7 probably had roughly close to 25, 30 buildings. We had
8 close to 100 licenses.

9 So the question is not what we were operating we
10 didn't have a license. All these information, deletion,
11 modification, that you're referring on this list was delete
12 all the extra things that, as I mentioned, was licensed
13 previously because of those marketing strategy. Just, let's
14 clean up all the license situation, and then go on from
15 there.

16 So there is nothing licensed, nothing was operated
17 that was licensed or authorized.

18 Q Well, we'll get to that in a minute, Mr. Nourain.
19 I think my -- I intended to be my question similar than
20 apparently came across to you. So let me ask it a different
21 way.

22 Ms. Richter here put together a list of licenses,
23 and she sent a copy to you. Right?

24 A Yeah.

25 Q That's what this is.

1 A Yes.

2 Q Okay. And the only question that I wanted to ask
3 you was whether or not, if you had looked at this list and
4 you saw that there was something missing, in other words a
5 license that you thought you had that she didn't have on
6 this list, would you have called her and said, "Hey, there
7 is a license that I have that you don't have on your list?"

8 A Yes.

9 Q Okay. That's all I intended to ask.

10 (Pause)

11 Q And I'd like you to turn to a document that's
12 previously been marked and admitted in the hearing, and
13 that's TW/CV Exhibit 14. And that may be in another of the
14 notebooks.

15 A 14?

16 Q Yes.

17 JUDGE SIPPEL: Is that in the small notebook, or
18 the previous notebook?

19 MR. BECKNER: The big one, Your Honor.

20 JUDGE SIPPEL: I think it's in the big one, yeah.

21 MR. BECKNER: And Your Honor, just while we're
22 doing that, I'd just advise you that we now have tabs with
23 the right numbers that we can insert in the notebook as you
24 had asked me to do during the break.

25 JUDGE SIPPEL: All right. Well, I'm mostly

1 concerned about the tabs that are going to go from here to
2 the Commission filing room, or the two copies that the
3 reporter has. That's the critical one.

4 I think we both -- I think all of us here have
5 adapted to the tab/exhibit distinction.

6 Go ahead.

7 BY MR. BECKNER:

8 Q All right. Mr. Nourain, do you have TW/CV Exhibit
9 14 in front of you? That's the "Installation Progress
10 Report" dated February 23, 1995.

11 A Yes.

12 Q Okay. If you'd turn to page 5 of that report, and
13 there are little, small numbers in the lower right-hand
14 corner of the pages that identify each page, 005, etc.

15 A Yes, I do have that.

16 Q And that page, just so we know we're looking at
17 the same thing, is identified at the top as "Page 5 of 11,
18 Installation Progress Report." Do you see that?

19 A Yes.

20 Q Okay. There's an address here of 175 East 74th
21 Street. Do you see that?

22 A Yes.

23 Q Okay. And there's a start date of 2/93.

24 A Yes.

25 Q Beside that address, and an end date of 3/93.

1 A Yes.

2 Q That's the date when installation of customers was
3 started and finished for that particular address. Correct?

4 A I didn't generate this, so I don't know.

5 Q Well, you used this report in your work, did you
6 not?

7 A No. That was just a marketing report.

8 Q You have no --

9 A An installation report.

10 Q You have no idea what this means?

11 A I -- Sure, I do, it's -- It talks about a start
12 and end. Whether it's an installation, whether it's an
13 internal building construction, but it looks to me that it
14 talks about the installation of the customers.

15 Q Okay.

16 A You know, their number of installations.

17 Q I want you to look at the building right
18 underneath 175 East 74th which is 812 Fifth Avenue.

19 A Yes.

20 Q You see a start of 2/93 and an end date of
21 4/19/93.

22 A Yes.

23 Q Okay. And there's 510 East 86th Street has a
24 start date of 2/93 and an end date of 2/9/93. Do you see
25 that?

1 A Yes.

2 Q Okay. Now if you would take a look back at TW/CV
3 Exhibit 58, that's the fax that Ms. Richter sent you on
4 March 16, 1993.

5 A Oh, I'm sorry. I closed that book. Which --

6 Q It's Tab 7.

7 A Seven.

8 JUDGE SIPPEL: This is Exhibit 58?

9 MR. BECKNER: Exhibit 58.

10 THE WITNESS: What page?

11 BY MR. BECKNER:

12 Q If you would take a look at Ms. Richter's list --

13 JUDGE SIPPEL: What page on that exhibit?

14 MR. BECKNER: I'm asking him to look at all the
15 pages of her actual inventory, the draft inventory that's in
16 this exhibit.

17 THE WITNESS: Okay.

18 BY MR. BECKNER:

19 Q The question is, is there a path identified to, a
20 licensed path identified to 175 East 74th Street?

21 (Pause)

22 JUDGE SIPPEL: Off the record.

23 (Pause to look through document)

24 JUDGE SIPPEL: We're back on the record

25 MR. BECKNER: Did we get the witness' answer on

1 the record?

2 JUDGE SIPPEL: No, he's still doing a comparison
3 of --

4 THE WITNESS: Yes.

5 MR. BECKNER: I thought he gave an answer.

6 JUDGE SIPPEL: Well, he did say something before
7 we got on the record, but then he went back to looking
8 again, so --

9 MR. BECKNER: Fine.

10 (Pause)

11 THE WITNESS: No, it's not here.

12 BY MR. BECKNER:

13 Q Mr. Nourain, look back, if you will, at TW/CV
14 Exhibit 14. That's the installation report.

15 There's a block of buildings --

16 MR. SPITZER: Your Honor?

17 JUDGE SIPPEL: Yes.

18 MR. BECKNER: I haven't finished my question.

19 MR. SPITZER: I'm sorry. But this goes to a prior
20 question. There is an indication of that building in this
21 exhibit. I don't know if we're trying to play guess work
22 with the witness or if he didn't see it.

23 JUDGE SIPPEL: Which exhibit..

24 MR. SPITZER: The last page of the exhibit. It's
25 on the technical diagram.

1 JUDGE SIPPEL: The last page of 58 or 14?

2 MR. SPITZER: 58, Your Honor.

3 JUDGE SIPPEL: Do you see where he is? Did you
4 check those?

5 THE WITNESS: No, Your Honor. I didn't see that.
6 I was just checking the list, this drawing.

7 MR. SPITZER: I don't know, Mr. Beckner, how this
8 fits with his examination, but I don't think we're trying to
9 fool the witness in terms of whether this building is or is
10 not on this list in any way, shape or form. So I just
11 wanted to --

12 MR. BECKNER: Well, since counsel drew our
13 attention to that, I'll just ask Mr. Nourain to take a look
14 at the last page of the exhibit, and 175 East 74th Street.

15 BY MR. BECKNER:

16 Q What's written right above that, sir?

17 A It says "future".

18 Q Okay.

19 Now if you go back to Exhibit 14, and the page 005
20 that you were looking at, there are six buildings in a group
21 with an indicated start date of 2/93. There are four
22 buildings beneath that in a separate group with an indicated
23 start date of 3/92.

24 What I'd like you to tell me is if you see any of
25 these addresses in these two groups that I've just pointed

1 out to you, listed as licensed paths in the facsimile that
2 Ms. Richter sent you on March 16, 1993?

3 MR. SPITZER: Your Honor, I'm sorry. I just have
4 to object. You're asking how many buildings as a total, Mr.
5 Beckner? Ten buildings is it?

6 MR. BECKNER: Yes, it is.

7 MR. SPITZER: So you're asking the witness to sit
8 here and go through each of ten buildings in this entire
9 document to see whether there's a list. I mean this is --

10 JUDGE SIPPEL: I'll sustain the objection thus
11 far, but I want to work with Mr. Beckner on this.

12 Is there a way of refining this a little bit?

13 MR. BECKNER: Well, Your Honor, I mean I can
14 either do this one by one or I can do it like this. These
15 are all buildings which, according to Liberty's records,
16 customer installation was started either in February or
17 March of '93. As I've already asked, the question is did
18 Ms. Richter identify in her draft inventory that she sent to
19 Mr. Nourain on March 16, was there a licensed path to these
20 buildings. Now I don't know how else to do it except either
21 one by one or as a group. I thought maybe it would be
22 easier to do it as a group, and take less time. But if
23 counsel would prefer that I go one by one, I can do that.

24 MR. SPITZER: He could have asked Ms. Richter, and
25 you could have done it somehow in the deposition, which

1 perhaps would have been the place to do that rather than a
2 trial where this is going to be a laborious process at best,
3 and we've already seen the witness tried to do it with one
4 path and there was a mistake made. I gather, I think it's
5 fair to presume, Mr. Beckner, you undertook this exercise
6 back at your law firm before you asked these questions and
7 you made a mistake, because obviously this building is here.

8 So it just seems unfair to a witness with 20
9 people sitting here to ask him to go through ten buildings,
10 through a 20 page document with lots of type to try to find
11 whether a building's there or not. If you wanted to do
12 this, if you had said ahead of time can we get some
13 stipulation or is there some way to look at these exhibits,
14 maybe that would be a rational way to do it, but not with
15 the witness sitting on the stand this way.

16 MR. BECKNER: Your Honor, I don't think I'm
17 required to give Mr. Spitzer or anyone else an advance copy
18 of my questions.

19 JUDGE SIPPET: I agree with that, but what -- Your
20 question is solely with respect to these three properties
21 that you identified? Or is it broader than that?

22 MR. BECKNER: It's with respect to, I asked the
23 second question with respect to -- Mr. Spitzer is correct,
24 there's a total of ten properties on this report, on page
25 005 of the installation progress report that are identified

1 as having an install start date of 2/93 or 3/93. I'm simply
2 asking the witness if this inventory of licenses that he
3 received from Ms. Richter on March 16, '93, has licensed
4 paths to any of these buildings.

5 JUDGE SIPPEL: So he's got to make this
6 comparison.

7 Let me ask you this. Do you have any specific
8 illustrations in mind where there's an inconsistency?

9 MR. BECKNER: I think with respect to only one of
10 these buildings are you going to find an indication that
11 there is a licensed path.

12 JUDGE SIPPEL: On Ms. Richter's report?

13 MR. BECKNER: That's correct.

14 JUDGE SIPPEL: Why don't you ask the witness that
15 question that way? If he can explain why there would be
16 paths that are identified on Exhibit 14 that don't appear in
17 Ms. Richter's report on Exhibit 58.

18 MR. BECKNER: All right.

19 And by way of explanation, Your Honor, I had
20 originally planned to go through this with the summary
21 exhibit, which would have been easier. There was an
22 objection to that, which was sustained.

23 JUDGE SIPPEL: Ultimately what we want to find out
24 is why, if he has any understanding as to why there is the
25 inconsistency. Right? That's what you want to get at.

1 That's what you want to reach, that point. I don't think we
2 need to walk him through each of the inconsistencies.
3 They're either going to be -- They're there. I'm sure
4 they're there. He checked them out.

5 MR. SPITZER: But the one he began with, it turned
6 out wasn't, but that's.. Maybe --

7 JUDGE SIPPEL: Let's see where it goes.

8 MR. SPITZER: Fine.

9 MR. BECKNER: I've got to disagree with Mr.
10 Spitzer's characterization. It's not on the list. There's
11 a map here that identifies this address as "future".

12 MR. SPITZER: But there's not any consistency.
13 Future may mean future service, in which case it wouldn't be
14 an inconsistency, Mr. Beckner. Isn't that correct? So stop
15 characterizing it that way if you haven't laid a foundation
16 for it.

17 MR. BECKNER: The question was is it on the list.

18 MR. SPITZER: On the chart may mean on the list,
19 and you're not even defining this document.

20 JUDGE SIPPEL: Let's see where we can go with it
21 the way I've told you to go, and see where the record stands
22 after we finish it that way. Then we can break for lunch.

23 BY MR. BECKNER:

24 Q Since Mr. Spitzer doesn't seem to like 175 East
25 74th, let me ask, if I may, ask the witness about another

1 address -- 812 Fifth Avenue.

2 Mr. Nourain, and I'll ask the question this way
3 and maybe we can speed things up. Mr. Nourain, can you tell
4 us whether or not you see a licensed path to 812 5th Avenue
5 in this fax that Ms. Richter sent you?

6 JUDGE SIPPEL: Again, it's Exhibit 58.

7 MR. BECKNER: Exhibit 58.

8 (Pause)

9 JUDGE SIPPEL: Again, in the interest of time, I
10 think everybody is agreed that it does appear, 812 5th
11 Avenue does appear in the future path oat the illustration,
12 or the schematic drawing at the back of this exhibit,
13 Exhibit 58.

14 So you're asking him whether it appears somewhere
15 else in this exhibit?

16 MR. BECKNER: On the list.

17 JUDGE SIPPEL: Thank you, okay. that's fair.

18 (Pause)

19 THE WITNESS: I don't see it in the list.

20 BY MR. BECKNER:

21 Q Okay. What about 400 East 59th Street?

22 MR. SPITZER: Can we again stipulate that says
23 "future" on the same page, Your Honor?

24 MR. BECKNER: What says future?

25 MR. SPITZER: On your exhibit, Mr. Beckner, same

1 place.

2 JUDGE SIPPEL: On the schematic drawing at the
3 end.

4 What was the address again?

5 MR. BECKNER: 400 East 59th.

6 JUDGE SIPPEL: There it is as a future. It
7 appears that the drawing has a future path.

8 Your question is, does it appear in the list?

9 MR. BECKNER: Right.

10 THE WITNESS: I don't see it either.

11 MR. BECKNER: Okay.

12 JUDGE SIPPEL: Now assuming that there may be
13 other situations like that, do you have an ultimate question
14 that you want to ask this witness about?

15 MR. BECKNER: I'm going to stop for the moment and
16 just ask the witness now a question about those. That is --

17 BY MR. BECKNER:

18 Q Mr. Nourain, do you have any understanding with
19 respect to this facsimile? First off, as to why the lists
20 as distinguished from the chart at the end, do not include
21 paths to the addresses that I just asked you about.

22 A The only thing I can explain to this is that at
23 the time, at this time of 1992, 1993, we had a number of
24 call signs for certain transmitters. We also did some
25 technical modification on some of the paths which was

1 originally licensed, which we got an SDA for them as part of
2 the modification. If you see that, the list like this is
3 not complete, obviously we need to take a look at it and
4 find out those buildings, if it's not on this list and they
5 were installed, is it under some other call sign or some
6 other modification or they were licensed, such a license
7 that we did not, it was modification required on them. Then
8 it was applied SDA to them, and got authorization under
9 SDA's. That's the only explanation I can give you at this
10 point.

11 Q As counsel for Liberty pointed out, the paths, the
12 addresses are identified in the system diagram, which was
13 the last page of this facsimile, and each of them is
14 identified as a "future" site.

15 Do you have any understanding as to what that
16 means?

17 A That's not my handwriting, I don't know.

18 Q Do you know whether or not that would mean that
19 that address is the subject of an application which is
20 pending?

21 A I cannot speculate. I don't know.

22 Q You just don't know?

23 A Yes.

24 Q I take it then that at the time that you received
25 this fax, you did not make the kind of comparison that I've

1 just had you make a couple of minutes ago.

2 A No, I did not.

3 Q As far as you know on March 16, 1993, you're
4 saying that you were not aware of a ny instance where
5 liberty was offered EM like O8 pass without some sort of
6 authority to do so, either a license or an STA.

7 A That wouldn't have happened, because a number of
8 times I mentioned on my previous testimonies that I always
9 look at the technical part of when I clear the frequency,
10 when I had Comsearch to get these paths cleared. At that
11 point, if it was licensed, it will be authorized to turn it
12 up. If it wasn't, it will have been modified and got the
13 SCA for it. So I've approached two different ways of
14 finding not this list. This list to me was Jennifer
15 Richter's information for her. As I said, I'm not even sure
16 that it was correct or incorrect. I did not go based on her
17 list. I went based on the licenses that we got and what I
18 authorized her to go ahead with the SDAs.

19 Q Did you understand her sending you this list in
20 the facsimile with the request on the cover sheet that you
21 review it, did you understand that to be a request to tell
22 her whether or not the list was correct or incorrect?

23 A This list doesn't necessarily mean it is
24 incorrect. The purpose of it. As I mentioned again, this
25 was done at a certain date at that time. There might have

1 been other lists with a different call sign, might have been
2 some other path under STAs, might have been just a portion
3 of it that she mentioned in there. I just don't recall
4 right now. It's too long. In order to really find out, I
5 have to go there and focus on that and find out exactly, at
6 the time, what this list was all about, and particularly she
7 should be able to answer some of those questions. Her list
8 I was just copied by.

9 Q You say she should be able to answer some of the
10 questions. Did you inform her as to when you actually
11 turned on a microwave path?

12 A I mean, answers that, you question a future.
13 Somebody has handwritten there "future" and you're asking me
14 what is that. I don't know that. That's different than I
15 said. Every path that was installed was, my presumption was
16 that it was licensed and it was, path was already installed
17 and we found out there was some modification problem to it
18 which she applied to that to get modifications, and path was
19 authorized, yes.

20 JUDGE SIPPEL: Let me just follow up with a more
21 general question on that.

22 Your testimony was that you assumed there was a
23 license if it was operational.

24 THE WITNESS: The license had an authorization
25 like an STA.

1 JUDGE SIPPEL: All right. But you didn't verify
2 as to whether or not there was a license or an STA with
3 respect to each and every activation that you made.

4 THE WITNESS: The license, if it was a path that
5 was licensed, I would have the license, which I would look
6 at it, I knew that it was licensed. If it wasn't licensed,
7 I would get STA from there. And those STAs, my assumption
8 was that it was already been applied for and provided
9 authorization for.

10 JUDGE SIPPEL: But my question is that there were
11 situations where you activated paths where there was no
12 license and there was no STA. That's established as a given
13 fact, correct?

14 THE WITNESS: Yes.

15 JUDGE SIPPEL: So in those situations you did not
16 verify that there was an STA and/or a license before those
17 paths were activated.

18 THE WITNESS: That's correct.

19 MR. BECKNER: Your Honor, we're at a good point to
20 break for lunch.

21 JUDGE SIPPEL: All right.

22 Are you going to come back to this after lunch?
23 I'm not going to put a burden on this witness, but this
24 would be an opportunity, if there was something reasonable
25 that he could do to prepare for coming back and we can tack

1 on an added 15 minutes. Or are you off this subject? Is
2 this it?

3 MR. BECKNER: I'm going to come back to this
4 subject with respect to Exhibit 3.

5 JUDGE SIPPEL: With respect to Exhibit --

6 MR. BECKNER: TW/CV Exhibit 3. That's the next
7 sequence in my examination is to ask him about the actual
8 inventory that Ms. Richter put together.

9 JUDGE SIPPEL: Okay, that's at Exhibit 3 of the
10 original set of exhibits.

11 MR. BECKNER: That's correct.

12 JUDGE SIPPEL: All right. Why don't we come back
13 at 1:30. That would give Mr. Nourain maybe 10 or 15 minutes
14 anyway to look at that Exhibit 3 and compare it with this
15 Exhibit 58. He'll maybe be in a little bit better position
16 to answer some of your questions.

17 MR. BEGLEITER: Is that what you're asking him to
18 do, to compare 3 to 58?

19 JUDGE SIPPEL: Well, he knows that he's going to
20 get questions on 3, and he knows he's going to get questions
21 on 58. Maybe I'm asking too much.

22 MR. SPITZER: Since these are lengthy documents,
23 maybe Mr. Beckner can indicate what type of comparison he
24 wants him to make. This is, just 3 alone is a 20-some-odd
25 page document with charts and lists. If I were asked to

1 compare them I wouldn't know where to begin. Maybe Mr.
2 Beckner can give him some guidance to assist.

3 JUDGE SIPPEL: I'm not going to go any further.
4 We'll just -- I appreciate that, Mr. Spitzer. I didn't look
5 myself at Exhibit 3 when I suggested this process.

6 Let's just come back at 1:30 and we'll pick up
7 where we left off. Question and answer. Any objection.
8 All right?

9 MR. BEGLEITER: Your Honor, I think the witness
10 does want to go back to New York today. Is there any way to
11 maybe come back at 1:15? I don't want to cut anybody's
12 lunch time off, but it seems to me --

13 JUDGE SIPPEL: Fine. Anybody have any objection
14 to that?

15 MR. BECKNER: I don't think the witness is in
16 jeopardy of not being able to go home tonight.

17 JUDGE SIPPEL: We will come back at 1:15. It's
18 12:15 now. That's plenty of time. We're in recess. Thank
19 you.

20 (Whereupon at 12:15 p.m. the hearing was recessed,
21 to reconvene at 1:22 p.m. this same day, Thursday, May 29,
22 1997.)

23 //

24 //

25 //

1 A F T E R N O O N S E S S I O N

2 1:22 p.m.

3 JUDGE SIPPEL: On the record.

4 Mr. Beckner, are you prepared to proceed?

5 MR. BECKNER: Yes, I am, Your Honor.

6 JUDGE SIPPEL: The witness is back on the stand.

7 You're still under oath, Mr. Nourain.

8 DIRECT EXAMINATION (CONTINUED)

9 BY MR. BECKNER:

10 Q Mr. Nourain, before we broke for lunch we were
11 discussing TW/CV Exhibit 58, and that's in the thin notebook
12 there. Just to advise you, we've replaced the tabs in the
13 notebook so now the numbers are correct.

14 JUDGE SIPPEL: I appreciate that.

15 MR. BECKNER: Also we'd note for the record that
16 we supplied replacement sets of tabs to the two copies that
17 were given to the Court Reporter.

18 JUDGE SIPPEL: Thank you very much. Thank you,
19 Mr. Beckner. That's going to mean a lot when this record
20 ultimately reaches its appropriate place at the Commission
21 headquarters. Thank you.

22 MR. BECKNER: We won't say what that place is.

23 (Laughter)

24 BY MR. BECKNER:

25 Q Exhibit 58, Mr. Nourain, was identified to you as

1 a draft by Ms. Richter, correct? She calls it a draft,
2 right? The first page of the cover sheet.

3 A Yes.

4 Q Do you recall receiving from Ms. Richter a final
5 version, if you will, of this license inventory that she had
6 been working on some time after March 16, 1993? I'm going
7 to have you turn to it. I'm just asking you if you remember
8 getting a final version.

9 A At this point I don't remember what happened in
10 1993 until I see the document.

11 Q Okay, let's take a look at what's been marked as
12 Time Warner/Cablevision Exhibit 59. It's a letter dated
13 April 6, 1993, addressed to Bruce McKinnon from Jennifer
14 Richter. On the second page it indicates you as a carbon
15 copy recipient.

16 The question is, do you recall receiving this
17 letter or a copy of it on or about April 6, 1993 with the
18 indicated inventories and enclosures?

19 A Yes.

20 Q I'd like to direct your attention to the bottom
21 paragraph on the first page of the letter. Ms. Richter
22 writes, "Behrooz and I were able to scrutinize the licenses
23 as originally authorized, as opposed to how they have
24 developed, and determined which paths need to be moved and
25 which should be deleted."